Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Sections 309(j) and 337 of the Communications Acts of 1934 as Amended	)	WT Docket No. 99-87
	)	
Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies	)	RM-9332
	)	

COMMENTS OF THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS SPECIAL COMMITTEE ON WIRELESS COMMUNICATIONS TECHNOLOGY ON REQUESTS FOR WAIVER OF THE JANUARY 1, 2013 VHF-UHF NARROWBANDING DEADLINE

On January 27, 2012, the Public Safety and Homeland Security Bureau published Public Notice DA 12-90 seeking comment on 21 requests from public safety agencies requesting waiver of the Narrowbanding deadline. The American Association of State Highway and Transportation Officials Special Committee on Wireless Communications Technology (SCOWCoT) is charged with monitoring current and developing wireless and electronic technologies for applicability to transportation, serve as a repository of technical information, offer expertise on improving incident response and interoperability, securing sufficient spectrum assignments to meet the needs of member departments, and, under the general direction of the Executive Director represent the Association and its member departments in proceedings before federal agencies on radio frequency matters. The Special Committee through the Association Staff Liaison also functions as the Certified Frequency Advisory Committee responsible for the coordination for frequencies assigned to the Highway Maintenance pool and serves all eligible parties as a frequency coordinator under Section 90.20 of the Commission's rules and regulations.

AASHTO has a long history in serving the needs of local government agencies since its formation in 1914 and was at the forefront of the world's largest public works project ever undertaken, the construction, operation and maintenance of the Interstate Highway system. Transportation, in each of its five modes, surface, air, water, rail and public are the lifeblood of this country. Without a sound, modern transportation system this nation's economy would collapse as people would not be free to travel, manufacturing would no longer be able to receive its supply of raw materials nor ship finished goods to consumers. Emergency response in all forms would be hampered without adequate roads and response to wide scale to disasters would be an impossibility.

AASHTO has reviewed many of the requests and offers both specific and general comments regarding their merit. The majority of the requests focus on a lack of funding necessary to complete projects currently in progress. The lack of funding was stated by the Commission as not providing sufficient justification as a reason for grant. It is unfortunate that many of these agencies will suffer should their request not be granted. AASHTO, as an association deals primarily with state level governmental agencies and fully understands the issues involving funding at the governmental level. Well reasoned and even urgent requests for funds made by practitioners must be granted by bodies far removed from daily operations and often with little understanding of the background behind the requests. Legislators have a tendency to delay granting long term, high-value requests to upgrade infrastructure as other projects, often short-term may have more impact with the citizens than the replacement or modernization of an operational system facing a deadline still in the future.

Many agencies have requested funds to upgrade or modernize their communications systems even before the current economic downturn but were rebuffed as it wasn't a critical need at the time. Now, the need is critical and the agencies lack funding to complete, and in some cases to even begin the task before them. Several requests pending before the Commission indicate the agency still is not guaranteed the funding as funds are allocated on a yearly basis and the funding organization cannot allocate sufficient funding in the current allocation period. In these instances there are no guarantees sufficient funds will be allocated in future years as a consequence of a waiver being granted. Should a waiver be granted due to a lack of funds, the funding body could reason another waiver could be requested and granted using the same arguments.

Our review of the requests also showed the requestors do not state what will be the consequence of not meeting their requested waiver date. If a date is set within a waiver, what happens when that date occurs and the project is incomplete? Would another waiver be requested and granted or would the agency be required to cease operations? These are exceedingly difficult questions for which there is no clear answer. The emergency response agency clearly cannot stop operations as it would put the citizens they serve at risk, but it is unclear if the groups controlling the funds understand the ramifications.

AASHTO also notes many requests exceed the Narrowbanding requirements of reducing the occupied bandwidth by the conversion to different frequency bands and technologies. Agencies used funds from various grants to begin these projects however, grant funds have been significantly reduced and the restrictions on the technology used have also changed. This has had the consequence of a partially completed project which does not meet the current technology guidelines or a project stalled at a preliminary stage due to site acquisition or contracting difficulties.

AASHTO is concerned with the amount of time many recipients are requesting. The length of time requested ranges from six months to five years. This variation speaks to the applicant's current progress in meeting the Commission's date certain. The date certain of December 31, 2012, has been known for many years and the Commission has required equipment certified after February, 2006 be capable of operating with reduced emissions bandwidth. While radio equipment is capable of operating for long periods without the need for remedial maintenance or replacement we believe all the applicants have had sufficient time to procure a great many items needed to meet the mandate within their current system. AASHTO also notes the requirement to reduce emission bandwidth did not require moving to a

different technology or frequency band but many agencies have announced plans to meet the requirement in exactly this manner.

AASHTO, as a certified frequency coordinator has taken steps to aid licensees in their efforts to meet the Commission's requirements. AASHTO, along with other public safety coordinators have significantly reduced fees to applicants for the reduction of bandwidth, antenna height and power. AASHTO successfully petitioned the Commission for modification of Section 90.175 to allow the deletion of a wide emission designator without proof of coordination. This change, along with the ability of a licensee to add a narrow emission designator, reduce antenna height or reduce power was codified in March 2010 and published on April 14, 2010[1].

With very little exception AASHTO is unable to support the majority of the petitions. Two petitions AASHTO feels are worthy of detailed review are the State of Maine which is bound by a lack of available frequencies and installations near the Canadian border. The Spokane Regional Emergency Communications System seeking an extension as a weather contingency.

The overarching explanation provided has been a lack of funds with delays in beginning the process also accounting for many justifications. Those few exceptions have shown the petitioner understood the process, allocated enough time to complete the conversion and secured the necessary funding. One unanswered concern remains, the lack of consequences should the project not be completed even with the grant of a waiver. The Commission is correct in its reasoning the applicants have known this date was coming and failed to adequately plan for and execute a transition to narrow emissions. Many of the applicants evidently believed the reduction in occupied bandwidth would require the installation of a new technology system rather than a replacement or reprogramming of their current technology system. The petitioners all state they do not see any issues with their system continuing to operate with wide emissions as there are no reports of interference being caused or received from current users but failed to consider the needs of other agencies to expand their system with the new channels created between the current 25 kHz channel centers. This impact on other authorized users of the spectrum cannot be measured.

AASHTO, through its Special Committee on Wireless Communications Technology, the Special Committee on Transportation Security and Emergency Management, the Transportation Research Board of the National Academies of Science, the National Public Safety Telecommunications Council, the Joint Committee on Transit Wireless and numerous other boards, committees and organizations has worked diligently to insure agencies were fully cognizant of the impending date certain. AASHTO received comments ranging from "When they pry the gun from my cold, dead fingers" to "They'll never take action against a public safety agency." Through meetings, panels, written and verbal communications the word was spread countless times but apparently fell on many deaf ears.

AASHTO supports the decisions of the Commission in regard to these petitions.

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[1] 75 FR 19284 , Apr. 14, 2010